

Executive Summary – Enforcement Matter – Case No. 49794
KM Liquids Terminals LLC
RN100237452
Docket No. 2014-1869-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Galena Park Terminal, 906 Clinton Drive, Galena Park, Harris County

Type of Operation:

Bulk liquids storage terminal

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 29, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$62,625

Amount Deferred for Expedited Settlement: \$12,525

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$25,050

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$25,050

Name of SEP: Houston-Galveston Area Council (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 49794
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Docket No. 2014-1869-AIR-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 7, 2014

Date(s) of NOE(s): November 25, 2014

Violation Information

Failed to comply with annual emissions rate. Specifically, the Respondent exceeded the nitrogen oxide ("NOx") emissions rate of 3.52 tons per year based on a rolling 12-month period for the Vapor Combustor Unit System, Emission Point Number ("EPN") VCU-1B, for the 12-month periods ending in December 2011 through May 2014, resulting in the unauthorized release of approximately 16.29 tons of NOx [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit No. O988, Special Terms and Conditions No. 19, and New Source Review Permit ("NSR") No. 2193, Special Conditions No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
 - a. Within 30 days, submit written certification demonstrating compliance with the NOx emissions rate for EPN VCU-1B or submit an administratively complete permit amendment application for NSR Permit No. 2193 to increase the annual allowable NOx emissions rate for EPN VCU-1B;
 - b. If a permit amendment application is submitted, then within 45 days, submit written certification that an administratively complete permit amendment application for NSR Permit No. 2193 was submitted;
 - c. If a permit amendment application is submitted, then respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days of such requests, or by any deadline specified in writing; and

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Docket No. 2014-1869-AIR-E

d. If a permit amendment application is submitted, then within 180 days, submit written certification to demonstrate that either a permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Eduardo Heras, Enforcement Division,
Enforcement Team 5, MC 149, (512) 239-2422; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Jeff Hersperger, General Manager, KM Liquids Terminals LLC, 906
Clinton Drive, Galena Park, Texas 77547

Jeff Armstrong, President, KM Liquids Terminals LLC, 906 Clinton Drive, Galena Park,
Texas 77547

Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-1869-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	KM Liquids Terminals LLC
Penalty Amount:	Fifty Thousand One Hundred Dollars (\$50,100)
SEP Offset Amount:	Twenty-Five Thousand Fifty Dollars (\$25,050)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO ("AERCO")
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for

installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

KM Liquids Terminals LLC
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	1-Dec-2014	Screening	4-Dec-2014	EPA Due	30-May-2015
	PCW	4-Mar-2015				

RESPONDENT/FACILITY INFORMATION			
Respondent	KM Liquids Terminals LLC		
Reg. Ent. Ref. No.	RN100237452		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	49794	No. of Violations	1
Docket No.	2014-1869-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Eduardo Heras
		EC's Team	Enforcement Team 5
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$37,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	67.0% Enhancement	Subtotals 2, 3, & 7
		\$25,125

Notes: Enhancement for two NOV's with same/similar violations, one NOV with dissimilar violations, and three orders with denial of liability. Reduction for three notices of intent to conduct an audit and one disclosure of violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1,253
 Estimated Cost of Compliance \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$62,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$62,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$62,625
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DEFERRAL	20.0% Reduction	Adjustment	-\$12,525
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$50,100
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Screening Date 4-Dec-2014

Docket No. 2014-1869-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 4 (April 2014)

Case ID No. 49794

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100237452

Media [Statute] Air

Enf. Coordinator Eduardo Heras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	1	-2%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 67%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and three orders with denial of liability. Reduction for three notices of intent to conduct an audit and one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 67%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 67%

Screening Date 4-Dec-2014
Respondent KM Liquids Terminals LLC
Case ID No. 49794
Reg. Ent. Reference No. RN100237452
Media [Statute] Air
Enf. Coordinator Eduardo Heras

Docket No. 2014-1869-AIR-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F), 116.115(c), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit No. 0988, Special Terms and Conditions No. 19, and New Source Review Permit No. 2193, Special Conditions No. 1

Violation Description

Failed to comply with annual emissions rate. Specifically, the Respondent exceeded the nitrogen oxide ("NOx") emissions rate of 3.52 tons per year based on a rolling 12-month period for the Vapor Combustor Unit System, Emission Point Number ("EPN") VCU-1B, for the 12-month periods ending in December 2011 through May 2014, resulting in the unauthorized release of approximately 16.29 tons of NOx.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 10

912 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$37,500

Ten quarterly events are recommended for the period of non-compliance from December 1, 2011 to May 31, 2014.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$37,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,253

Violation Final Penalty Total \$62,625

This violation Final Assessed Penalty (adjusted for limits) \$62,625

Economic Benefit Worksheet

Respondent KM Liquids Terminals LLC
Case ID No. 49794
Reg. Ent. Reference No. RN100237452
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	1-Dec-2011	4-Dec-2016	5.01	\$1,253	n/a	\$1,253
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to certify compliance with the NOx emissions rate for EPN VCU-1B or to obtain a permit amendment that increases the NOx emissions rate for EPN VCU-1B. The Date Required is the first date of non-compliance and Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,253

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603254707, RN100237452, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603254707, KM Liquids Terminals LLC **Classification:** SATISFACTORY **Rating:** 2.91

Regulated Entity: RN100237452, GALENA PARK TERMINAL **Classification:** SATISFACTORY **Rating:** 0.78

Complexity Points: 41 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 906 CLINTON DR GALENA PARK, TX 77547-3461, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0262H

AIR OPERATING PERMITS PERMIT 3764

AIR NEW SOURCE PERMITS REGISTRATION 12956

AIR NEW SOURCE PERMITS REGISTRATION 29236

AIR NEW SOURCE PERMITS REGISTRATION 47921

AIR NEW SOURCE PERMITS PERMIT 2193

AIR NEW SOURCE PERMITS PERMIT 2444

AIR NEW SOURCE PERMITS REGISTRATION 75915

AIR NEW SOURCE PERMITS AFS NUM 4820100091

AIR NEW SOURCE PERMITS REGISTRATION 74762

AIR NEW SOURCE PERMITS REGISTRATION 79780

AIR NEW SOURCE PERMITS PERMIT 101199

AIR NEW SOURCE PERMITS REGISTRATION 103819

AIR NEW SOURCE PERMITS REGISTRATION 101674

AIR NEW SOURCE PERMITS REGISTRATION 105646

AIR NEW SOURCE PERMITS REGISTRATION 118052

AIR NEW SOURCE PERMITS REGISTRATION 131940

AIR NEW SOURCE PERMITS REGISTRATION 123635

AIR NEW SOURCE PERMITS REGISTRATION 114179

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION

(SWR) 30573

UNDERGROUND INJECTION CONTROL PERMIT

5X2600543

AIR EMISSIONS INVENTORY ACCOUNT NUMBER

HG0262H

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD026481523

POLLUTION PREVENTION PLANNING ID NUMBER

P00264

AIR OPERATING PERMITS PERMIT 988

WASTEWATER EPA ID TX0005819

AIR NEW SOURCE PERMITS REGISTRATION 24412

AIR NEW SOURCE PERMITS REGISTRATION 45172

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0262H

AIR NEW SOURCE PERMITS PERMIT 2443

AIR NEW SOURCE PERMITS REGISTRATION 53795

AIR NEW SOURCE PERMITS REGISTRATION 55782

AIR NEW SOURCE PERMITS REGISTRATION 73983

AIR NEW SOURCE PERMITS REGISTRATION 77380

AIR NEW SOURCE PERMITS REGISTRATION 81751

AIR NEW SOURCE PERMITS EPA PERMIT N158

AIR NEW SOURCE PERMITS REGISTRATION 103829

AIR NEW SOURCE PERMITS EPA PERMIT N168

AIR NEW SOURCE PERMITS REGISTRATION 112072

AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX14

AIR NEW SOURCE PERMITS REGISTRATION 105434

AIR NEW SOURCE PERMITS REGISTRATION 130986

AIR NEW SOURCE PERMITS PERMIT 110945

WASTEWATER PERMIT TXG670089

UNDERGROUND INJECTION CONTROL PERMIT

5X2600696

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50054

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30573

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: February 02, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 02, 2010 to February 02, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Eduardo Heras

Phone: (512) 239-2422

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

- 3) If **YES** for #2, who is the current owner/operator? N/A
 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 04/25/2010 ADMINORDER 2009-1161-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: S.C. 30C PERMIT
 Description: Failed to maintain a permit required destruction efficiency of 99.8% for the East Plant Roof Landing Vapor Combustion Unit.
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)
 5C THSC Chapter 382 382.085(b)
 Description: Failed to represent equipment in the permitting process, as documented during an investigation conducted on May 17, 2009. Specifically, a permit was obtained for one vapor combustion unit (EPN TNK VCU-1), however, two vapor combustors were installed (EPN TNK VCU-1A and EPN TNK VCU-1B).
- 2 Effective Date: 09/16/2011 ADMINORDER 2011-0250-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: SPECIAL CONDITION 33 PERMIT
 STC 16 OP
 Description: Failed to maintain the minimum operating temperature in the Vapor Combustion Unit ("VCU") of 1520°F for Vapor Combustor VCU-1A, 1556°F for Vapor Combustor VCU-1B, and 1800°F for Vapor Combustor VCU-2.
- 3 Effective Date: 12/07/2014 ADMINORDER 2014-0776-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: SC 1 PERMIT
 ST&C 19 OP
 Description: Failed to comply with the emissions limit for nitrogen oxides ("NOx") based on stack tests conducted from May 13, 2013 through May 14, 2013, for Emission Point No. ("EPN") FL-2b, and from May 24, 2013 through May 25, 2013, for EPNs FL-2a and FL-2c. Specifically, emissions from Flare System No. 2 (EPNs FL-2a, FL-2b, and FL-2c combined) were measured to be 7.90 pounds per hour ("lbs/hr") for NOx and the maximum allowable emissions rate for the flare system was 1.51 lbs/hr.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	May 26, 2010	(802429)
Item 2	August 23, 2010	(869776)
Item 3	September 20, 2010	(876714)
Item 4	October 04, 2010	(890609)
Item 5	October 20, 2010	(884240)
Item 6	December 30, 2010	(898995)
Item 7	January 24, 2011	(904861)
Item 8	February 18, 2011	(932359)
Item 9	February 22, 2011	(911807)

second valve. (Category C10)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.567
 5C THSC Chapter 382 382.085(b)
 Special Condition 33 PERMIT
 Speical Term & Condition 19 OP

Description: Failure to record stack temperature and natural gas flow. (Category B(19)(g)(1))

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 1 PERMIT
 Special Term & Condition 19 OP

Description: Failure to prevent unauthorized emissions resulting from numerous tank degassing activities. (Category B13)

F. Environmental audits:

Notice of Intent Date: 02/03/2010 (796679)

Disclosure Date: 05/06/2011

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 33

Description: Failed to maintain the required VCU operating temperature in 6 minute averages for 27 instances from 12/23/09 - 1/10/11.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 27E and 33

Description: Failed to ensure that hardware functioned properly as specified by the manufacturer as hardware related deviations occurred 21 times from 12/24/09 to 1/10/11.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-6(a)(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

Rqmt Prov: PERMIT SC 31E

Description: Failed to equip bleed valves and sample points with a plug, cap, blind flange, or a second closed valve as this occurred 30 times from 1/20/10 to 10/4/10.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 31A

Description: Failed to document all components that are excluded from monitoring and that are in non VOC or vacuum service.

Viol. Classification: Minor

Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-7(h)(3)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(i)(3)

Description: Failed to have written plans for annual monitoring of difficult to monitor OLDMACT and NESHAP components.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.354
 30 TAC Chapter 115, SubChapter D 115.356(1)
 30 TAC Chapter 115, SubChapter D 115.356(2)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Part 61, Subpart V 61.242-7
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-7(h)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(c)

Rqmt Prov: PERMIT SC 31F

Description: Failed to properly monitor or tag comonents to meet LDAR program requirements.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.113
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.113(b)

Description: Failed to the initial notice for a new source, and it was provided late to the administrator.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2382(d)
Description: The MACT EEEE NOCS did not include the information regarding pumps and valves as specified in 40 CFR 63.1039(a)(1) through (3).
Viol. Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2386(b)(1)(ii)
Description: Failed to submit the first compliance report required by MACT Subpart EEEE and the periodic report required by Subpart H on time. They were due on 7/31/07, but were not submitted until 7/27/10.
Viol. Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2386(b)(2)(i)
Description: Failed to submit the compliance reports required by MACT Subpart EEEE and MACT Subpart H for reporting periods from 7/1/07 to 12/30/09.
Viol. Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.182(d)(2)(xiii)
Description: Failed to include the facts that explain the delay of repair and why a process unit shutdown was technically feasible in the MACT Subpart H report dated 7/30/10.
Viol. Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.428(h)(4)
Description: Failed to ensure that leaking equipment was repaired within 15 days according to the the Excess Emissions Report dated 7/27/10. In addition, the report also states that failure to repair the components within 15 days was not reported on the delay of repair list.
Viol. Classification: Minor
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.424(b)
Description: Failed to have a detailed list, summary description or diagram showing the location of the equipment in gasoline service on the GD MACT AVO logs.
Viol. Classification: Minor
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)
Description: Failed to perform the 10 year internal floating roof inspection in 2007 for Tank 5-21. The seal inspection was not performed until 2010.
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(A)
Description: Failed to notify of the start of construction for Tank 125-1 on 11/7/08 and 15-3 on 4/1/10.
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT SC 28
Description: Inaccurate floating roof leg position in the inventory management system caused unauthorized floating roof landings and this occurred 9 times from 7/4/10 - 10/20/10.
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PERMIT SC 28
Description: Failed to degas the internal floating roof after it was landed and stripped. This occurred between 8/21/10 and 11/16/10.
Viol. Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
Description: Failed to have authorization for new or re-worked piping and/or fugitive components.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.300
40 CFR Chapter 61, SubChapter C, PT 61, SubPT BB 61.300
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.560
Description: Failure to re-classify marine and land based loading control devices (enclosed ground flares) as incinerators instead of flares when determining applicable requirements.
Viol. Classification: Major
Citation: 30 TAC Chapter 117, SubChapter B 117.303(a)
Description: Failure to classify facility as a major source of Nox emissions instead of a minor source therefore affecting the applicability of emergency use generators, diesel engines, and steam boiler.
Notice of Intent Date: 05/13/2013 (1103185)
No DOV Associated
Notice of Intent Date: 07/01/2013 (1115549)
No DOV Associated

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Hundred Twenty-Five Dollars (\$12,525) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Twenty-Five Thousand Fifty Dollars (\$25,050) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to comply with annual emissions rate, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit No. 0988, Special Terms and Conditions No. 19, and New Source Review Permit ("NSR") No. 2193, Special Conditions No. 1, as documented during an investigation conducted on November 7, 2014. Specifically, the Respondent exceeded the nitrogen oxide ("NOx") emissions rate of 3.52 tons per year based on a rolling 12-month period for the Vapor Combustor Unit System, Emission Point Number ("EPN") VCU-1B, for the 12-month periods ending in December 2011 through May 2014, resulting in the unauthorized release of approximately 16.29 tons of NOx.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty

and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KM Liquids Terminals LLC, Docket No. 2014-1869-AIR-E " to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twenty-Five Thousand Fifty Dollars (\$25,050) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with the NOx emissions rate for EPN VCU-1B in accordance with NSR Permit No. 2193, as described in Ordering Provision No. 3.d. below, or submit an administratively complete permit amendment application for NSR Permit No. 2193 to increase the annual allowable NOx emissions rate for EPN VCU-1B, in accordance with 30 TEX. ADMIN. CODE § 116.111, to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. If a permit amendment application is submitted, then within 45 days after the effective date of this Agreed Order, submit written certification that an administratively complete permit amendment application for NSR Permit No. 2193 was submitted, as described in Ordering Provision No. 3.d. below;
 - c. If a permit amendment application is submitted, then respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days of such requests, or by any deadline specified in writing; and
 - d. If a permit amendment application is submitted, then within 180 days after the effective date of this Agreed Order, submit written certification as described

below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate that either a permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ben Moulis
For the Executive Director

8/24/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Jeff Hersperger
Signature

4-27-15
Date

Jeff Hersperger
Name (Printed or typed)
Authorized Representative of
KM Liquids Terminals LLC

GENERAL MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A

Docket Number: 2014-1869-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	KM Liquids Terminals LLC
Penalty Amount:	Fifty Thousand One Hundred Dollars (\$50,100)
SEP Offset Amount:	Twenty-Five Thousand Fifty Dollars (\$25,050)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO ("AERCO")
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for

installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

KM Liquids Terminals LLC
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.